

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

*In re Hearst Communications State Right of
Publicity Statute Cases*

No. 1:21-cv-08895-RA-GWG

**DECLARATION OF ANDREA R. BUTLER IN SUPPORT OF
DEFENDANT HEARST COMMUNICATIONS, INC.'S
MOTION FOR ATTORNEY'S FEES**

I, ANDREA R. BUTLER, declare:

1. I am Counsel in the Hearst Corporation Office of General Counsel. I have been admitted to practice law in the state of New York and a member in good standing of the bar of this Court since 1999. I represent the defendant Hearst Communications, Inc. ("Hearst") in the above referenced case, and all constituent cases consolidated therein.

2. I have personal knowledge of the facts set forth herein, or have knowledge based on my review of records available to me or information I obtained from colleagues on whom I regularly rely on in the ordinary course of business.

3. In defending these consolidated class actions, Hearst counsel engaged in extensive legal and factual research into the allegations of each of the constituent complaints and the consolidated complaint (including some 20 named plaintiffs and the nine (9) right of publicity statutes under which claims were asserted), tracked related "right of publicity" litigation brought by these and other lawyers around the country, engaged in communications with the various plaintiffs' counsel (and the courts in which the consolidated complaints were initially filed) with respect to coordination and consolidation of these actions, drafted motion to

dismiss papers addressing the novel claims alleged, kept abreast of developments in right of publicity laws and provided the Court with supplemental authority (and responded to Plaintiffs' submissions), and prepared for and attended oral argument. Hearst counsel has also spent time preparing this motion for attorney's fees.

4. All of these actions were both reasonable and necessary to successfully prevail in these consolidated cases. Hearst defended this action entirely in-house, using experienced lawyers in the Hearst Corporation Office of General Counsel.

5. Conservatively, and based on contemporaneous records through January 2, 2023, Hearst lawyers spent *at least* 378.75 hours obtaining dismissal of this case and preparing this motion. Included in this time are only documented hours by lawyers who spent more than 20 hours on the matter; several other lawyers and support staff in the Hearst Office of General Counsel also spent time on this matter, including, among other things, engaging with Plaintiffs' counsel and the Court, conducting legal and factual research, reviewing and providing feedback on Hearst's motion to dismiss briefing, citechecking briefs and court filings, filing papers with the Court, and helping to prepare for oral argument. This additional time collectively amounted to at least an additional 30 hours of lawyer and paraprofessional time for which Hearst is not seeking a statutory award.

6. The following time spent by Hearst Office of General Counsel lawyers is included in Hearst's request for a statutory award of attorney's fees:

- a. Jonathan Donnellan, Co-General Counsel: 38.95 hours @\$1500/hour
- b. Andrea Butler, Counsel: 154.3 hours @\$1100/hour
- c. Sarah Park, Counsel: 101 hours @\$1100/hour
- d. Kristen Hauser, Counsel: 84.5 hours @\$1100/hour

7. The rates sought by Hearst are customary and reasonable for the defense of a major corporation in consolidated class actions in this district. Each of the lawyers who spent substantial time on this matter has at least 13 years (and as much as 30) of experience defending class action and other matters, including privacy class actions and First Amendment cases. Comparable lawyers representing global corporate defendants in class actions in New York City regularly bill more than \$1500/hour; indeed, top rates now exceed \$1900 to \$2000/hour. *See, e.g., Hart v. BHH, LLC*, No. 15-CV-4804, 2020 WL 5645984, at *9 (S.D.N.Y. Sept. 22, 2020) (noting that Bursor & Fisher billed two partners at the rate of \$1,000/hour and had submitted articles noting billing rates above that threshold); <https://www.wsj.com/articles/legal-fees-reach-new-pinnacle-1-500-an-hour-1454960708> (copy attached as Exhibit A); <https://news.bloomberglaw.com/business-and-practice/big-law-rates-topping-2-000-leave-value-in-eye-of-beholder> (copy attached as Exhibit B).

8. Hearst is not making a claim for the expenses and recoverable costs to which is entitled under the applicable Right of Publicity statutes.

9. As of January 2, 2022, the reasonable market value of attorney's fees for time spent by Hearst lawyers in defense of this action is more than \$417,205.00, based on 378.75 hours of attorney time.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 3rd day of January, 2023, in New York, New York.

/s/ Andrea R. Butler

Andrea R. Butler